United Nations A/53/727

General Assembly

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Fifty-third session
Agenda items 113 and 108

Programme budget for the biennium 1998–1999

Elimination of racism and racial discrimination

Programme budget implications of draft resolution A/C.3/53/L.18/Rev.1

Report of the Fifth Committee

Rapporteur: Mr. Tammam **Sulaiman** (Syrian Arab Republic)

1. At its 38th meeting, on 1 December 1998, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/53/36) on the programme budget implications of paragraph 10 of draft resolution A/C.3/53/L.18/Rev.1. The related report of the Advisory Committee on Administrative and Budgetary Questions was presented orally by its Chairman.

2. Statements and comments made in the course of the Committee's consideration of the item are reflected in the relevant summary record (A/C.5/53/SR.38).

Decision of the Fifth Committee

3. The Fifth Committee decided, without a vote, to inform the General Assembly that, should it adopt draft resolution A/C.3/53/L.18/Rev.1, an additional provision of $33,200 would be required over and above the resources approved under section 22, Human rights, of the programme budget for the biennium 1998–1999. The additional requirements for the year 2000 would be dealt with in the context of the preparation of the proposed programme budget for the biennium 2000–2001.

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Programme budget for the biennium 1998–1999

Human rights questions: implementation of human rights instruments

Programme budget implications of draft resolution A/C.3/53/L.23

Report of the Fifth Committee

Rapporteur: Mr. Tammam Sulaiman (Syrian Arab Republic)

1. At its 38th meeting, on 1 December 1998, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/53/37) on the programme budget implications of paragraph 1 of draft resolution A/C.3/53/L.23. The related report of the Advisory Committee on Administrative and Budgetary Questions was presented orally by its Chairman.

2. Statements and comments made in the course of the Committee's consideration of the item are reflected in the relevant summary record (A/C.5/53/SR.38).

Decision of the Fifth Committee

3. The Fifth Committee decided, without a vote, to inform the General Assembly that, should it adopt draft resolution A/C.3/53/L.23, an additional requirement of $19,000 would be required over and above the resources approved under section 22, Human rights, of the programme budget for the biennium 1998–1999. The additional requirements for the year 2000 would be dealt with in the context of the preparation of the proposed programme budget for the biennium 2000–2001.

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United Nations A/53/729

General Assembly

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Fifty-third session
Agenda item 64
Maintenance of international security — prevention of the violent disintegration of States

Letter dated 2 December 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the press statement of the Federal Ministry of Foreign Affairs of the Federal Republic of Yugoslavia following a number of serious incidents on the border between the Federal Republic of Yugoslavia and the Republic of Albania (see annex).

I should be very grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 64.

(*Signed*) Vladislav **Jovanovic**
Chargé d'affaires a.i.

98-38570 (E) 081298

Annex

Press statement issued on 30 November 1998 by the Federal Ministry of Foreign Affairs of the Federal Republic of Yugoslavia

Following the serious border incidents in the area of the posts Gorozup and Liken, provoked from inside Albania on 27 and 28 November 1998, a strong protest note was delivered to the Chargé d'affaires a.i. of the Albanian Embassy in Belgrade at the Ministry of Foreign Affairs today.

As is known, larger armed groups of terrorists with equipment attempted to illegally cross into the Federal Republic of Yugoslavia, using small arms fire and endangering the lives of Yugoslav border guards. In an effective action, the guards prevented all such attempts.

It was pointed out to the Albanian Chargé that the latest serious provocations from the Republic of Albania coincided with the intensified efforts towards a peaceful political solution in Kosovo and Metohija, which clearly demonstrates that these incidents were aimed at extending support to terrorists and opponents of dialogue and at causing political tension, so as to redirect attention and rechannel constructive efforts and thus deal a blow to the efforts for a peaceful political settlement.

To the high diplomatic representative of Albania was expressed the expectation that Albania, in line with its international obligations, would end the infiltration of terrorists, weapons and terrorist equipment. In particular, Albania was requested to close down all terrorist centres on its territory and to prevent terrorists, mujahedin, drug dealers and all elements of organized crime from transiting via its airports and ports for the territory of the Federal Republic of Yugoslavia.

Such pre-planned incidents and policy of open support to separatism and terrorism are in gross violation of the principles of the Charter of the United Nations and those of the Organization for Security and Cooperation in Europe, as well as in violation of the relevant Security Council resolutions, particularly resolution 1160 (1998), and constitute a threat to the territorial integrity and sovereignty of the Federal Republic of Yugoslavia, emphasizes the protest note.

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General Assembly

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Fifty-third session
Agenda item 64
Maintenance of international security — prevention of the violent disintegration of States

Letter dated 3 December 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the Declaration by the Federal Assembly of the Federal Republic of Yugoslavia of 3 December 1998 (see annex).

I should be very grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 64.

(*Signed*) Vladislav **Jovanovic**
Chargé d'affaires a.i.

98-38564 (E) 081298

Annex

Declaration issued on 3 December 1998 by the Federal Assembly of the Federal Republic of Yugoslavia

The Federal Assembly of the Federal Republic of Yugoslavia notes with indignation:

That recently there has been a series of flagrant attacks by the representatives of the United States administration against the Federal Republic of Yugoslavia, its vital State and national interests and constitutional institutions.

That new American pressures ensued after it became clear that Serbia and Yugoslavia do not accept the thesis about the so-called "dislocation of Serbia from Kosovo and Metohija", i.e., that it will defend at any cost the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia and, in Kosmet, the solution on the basis of equality of all citizens, national and ethnic communities.

In that connection, the Federal Assembly on the Federal Republic of Yugoslavia

Declares

1. All present, as well as former United States pressures, in fact represent support to separatism and terrorism in Kosovo and Metohija and cause destabilization in the region.

2. The Federal Assembly resolutely rejects and condemns all instruments of pressure, threats and flagrant interference of the United States of America in the internal affairs of the Federal Republic of Yugoslavia. In order to achieve their destructive goals in the Balkans, the United States of America, its official representatives and agencies, render direct support and assistance to separatism and terrorism and finance those opposing the independence, stability and progress of the Federal Republic of Yugoslavia. In that way the United States of America, as a super-Power, at the same time places itself in the service of terrorists and separatists, of those forces whose declared goal is the recharting of international borders, the creation of the so-called "Greater Albania" to the detriment of territories of sovereign States in the region. This constitutes a violation of basic principles of the Charter of the United Nations and Security Council resolutions, which condemned terrorism and separatism and threats to lasting peace and stability in the region.

3. It calls on the United States representatives to stop deceiving the American and world general public that they, through their policy of threats and blackmail against Yugoslavia, allegedly work for human rights, protection of national minorities and democracy.

4. It energetically condemns contacts and cooperation of the high representatives of the United States of America with the Albanian terrorists, murderers, kidnappers and confirmed bandits of the Albanian narco-mafia and organized international crime in general. In this way, American representatives render overt support to separatism and terrorism in Kosovo and Metohija, in spite of their proven connection with terrorist organizations in Asia, the Gulf and in eastern and northern Africa, which is very well known to the competent American authorities.

5. The fact that high American representatives state that they cannot dislocate Kosovo and Metohija from Serbia, that they cannot detach and annex it to some "Greater Albania" as long as Yugoslav President Slobodan Milosevic is in power, is in fact a recognition of the policy of Yugoslavia and its President to defend the territorial integrity and sovereignty of the country. The Federal Assembly renders full support to the President of the Federal Republic of Yugoslavia, Slobodan Milosevic, to persist in the defence of vital

national and State interests, in a peaceful and just solution to the problems in Kosovo and Metohija in the interest of all national communities living in Kosmet as well as in the interest of all the citizens of our country.

6. The will citizens expressed at the elections is a sovereign will, and this principle, on which modern democracies, including the United States of America, are based, equally applies to Serbia and the Federal Republic of Yugoslavia. Constitutional organs of Serbia and Yugoslavia cannot be dismissed and established to please any foreign factor, nor can the will of the people be questioned. It is the duty of democratically elected organs and institutions to efficiently protect, by all available means, the sovereignty, independence and integrity of the country, to defend its dignity, and at this time above all to resolutely put an end to every form of separatism and terrorism. Kosovo and Metohija has always been, still is and will remain an integral part of the Republic of Serbia and the Federal Republic of Yugoslavia. We expect that the American public and the United States of America will realize and accept this truth, and not provoke crises or orchestrate pressures to achieve goals which they hide from their own as well as the international public.

7. If the United States of America truly wants a democratic Serbia and Federal Republic of Yugoslavia, then it will assist it in the best way by lifting economic sanctions and pressures against Serbia and the Federal Republic of Yugoslavia, as well as by a resolute and principled position on Albanian separatism and terrorism in Kosovo and Metohija, in accordance with the Charter of the United Nations, international law and principles of modern democracy. The outer wall of sanctions, and direct or indirect support to the Albanian separatists, do not encourage democratic processes, but seriously obstruct them.

8. The Federal Assembly points out that peace, stability and relations can be built exclusively on the principles of equality, independence, non-interference in internal affairs and strict respect of sovereignty and territorial integrity. Any other approach would result in inconceivable threats not only to the region but also to international relations in general.

United Nations A/53/731

General Assembly

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Fifty-third session
Agenda item 105
Report of the United Nations High Commissioner for Refugees: questions relating to refugees and displaced persons and humanitarian questions

Letter dated 4 December 1998 from the Permanent Representatives of Armenia, Belarus, Georgia, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan to the United Nations addressed to the Secretary-General

We should like to refer to the implementation of the Programme of Action of the Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States.

In 1998, the Conference's Steering Group once again reviewed progress made in implementing the provisions of this important document, which made it possible to begin a constructive dialogue on the entire range of the problems of forced and illegal migration in the region. Our countries are firmly determined to bring about, consistently both through our own efforts and with the assistance of donor States, the implementation of the recommendations of the Programme of Action.

We note with satisfaction that all the participants in this process express a political commitment to the obligations arising under the Programme of Action. This was once again confirmed both in the special decision on the Conference's follow-up measures adopted in October 1998 by the Executive Committee of the Office of the United Nations High Commissioner for Refugees as well as during the process of reaching agreement on the draft resolution on this question at the current session of the General Assembly (A/C.3/53/L.52).

The success of the follow-up measures depends to a considerable extent on adherence to the principle of the complementarity of national and international efforts agreed upon in the Programme of Action. At the same time, international support for the implementation of the Programme of Action is not only not on the increase, but is tending to diminish. The Programme's priorities, in our estimation, are increasingly being accorded peripheral attention by the international community. We believe that the Programme's implementation is closely linked with guaranteeing stability and security in our countries, maintaining social harmony and staying the course aimed at bringing about democratic reforms. These goals

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are fully in conformity with the Charter of the United Nations and the Universal Declaration of Human Rights, whose fiftieth anniversary we are solemnly commemorating in our countries.

Today as never before, we are in need of a demonstration of international solidarity, practical results and a high degree of political responsibility on the part of all our partners in the implementation of the Programme of Action.

Aware of the objective difficulties that have recently arisen in finding means to meet humanitarian needs on a worldwide scale, we nevertheless should like you to use your influence and authority to encourage an appropriate response on the part of the international community to our countries' expectations in this area. We should like to count on continued international support by the countries that initiated the process of the Conference and made a significant contribution to it. Our countries' peoples and Governments express their sincere appreciation and gratitude for this assistance.

We are looking forward to the further expansion of international cooperation in this important humanitarian field and, for our part, we shall continue to take the greatest possible national measures in order to implement the Programme of Action.

We should be grateful if this letter were circulated as a document of the General Assembly under agenda item 105.

(*Signed*) M. **Abelian**
Permanent Representative of the Republic of Armenia to the United Nations

(*Signed*) A. **Sychou**
Permanent Representative of the Republic of Belarus to the United Nations

(*Signed*) P. **Chkheidze**
Permanent Representative of Georgia to the United Nations

(*Signed*) Z. **Eshmambetova**
Permanent Representative of the Kyrgyz Republic to the United Nations

(*Signed*) S. **Lavrov**
Permanent Representative of the Russian Federation to the United Nations

(*Signed*) R. **Alimov**
Permanent Representative of Tajikistan to the United Nations

(*Signed*) A. **Ataeva**
Permanent Representative of Turkmenistan to the United Nations

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General Assembly

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Fifty-third session
Agenda items 113 and 43

Programme budget for the biennium 1998–1999

The situation of democracy and human rights in Haiti

Programme budget implications of draft resolution A/53/L.57

Report of the Fifth Committee

Rapporteur: Mr. Tammam **Sulaiman** (Syrian Arab Republic)

1. At its 39th meeting, on 4 December 1998, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/53/39) of the programme budget implications of draft resolution A/53/L.57 entitled "The situation of democracy and human rights in Haiti". The related report of the Advisory Committee on Administrative and Budgetary Questions (A/53/723) was introduced by its Chairman.

2. Statements and comments made in the course of the Committee's consideration of this item are reflected in the relevant summary record (A/C.5/53/SR.39).

Decision of the Fifth Committee

3. The Fifth Committee decided to inform the General Assembly that, should it adopt draft resolution A/53/L.57, an additional appropriation of $5,919,800 would be required under section 3, Peacekeeping operations and special missions, of the programme budget for the biennium 1998–1999. An additional appropriation of $849,800 would also be required under section 32, Staff assessment, to be offset by a corresponding amount under income section 1, Income from staff assessment.

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GENERAL ASSEMBLY
Fifty-third session
Agenda item 62
QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-third year

Letter dated 7 December 1998 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government and further to my letter dated 1 December 1998 (A/53/724-S/1998/1145), I have the honour to draw your attention to a new violation of the national airspace of the Republic of Cyprus and of the flight information region (FIR) of Nicosia by military aircraft of the Turkish Air Force, recorded on 1 December 1998.

On that day, one C-130 military aircraft of the Turkish Air Force entered the Nicosia FIR, violating international air traffic regulations. The aircraft in question violated the national airspace of the Republic of Cyprus by flying over the area of Karpasia, exiting thereafter in a south-easterly direction.

As stated in my previous letters, such unauthorized intrusions into the Nicosia FIR and the national airspace of the Republic of Cyprus are in violation of international air traffic rules and at the same time are in contravention of the provisions of the Security Council resolutions on Cyprus, which state that such overflights increase tension on the island and undermine efforts towards achieving a final settlement.

On behalf of the Government of the Republic of Cyprus, I wish to strongly protest this new provocative act by Turkey against the sovereignty and territorial integrity of the Republic of Cyprus. I underline that such violations occur on almost a daily basis. The frequency and intensity of airspace violations are a further reminder of Turkey's offensive disregard of international law, the Charter of the United Nations and all the relevant decisions of the Organization on the question of Cyprus.

Furthermore, the continuing overflights by the Turkish Air Force as well as the presence of the Turkish military occupation forces on the island constitute the underlying causes of tension in Cyprus.

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly, under agenda item 62, and of the Security Council.

(Signed) Sotos ZACKHEOS
Ambassador
Permanent Representative

United Nations A/53/734

General Assembly

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8 December 1998

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Fifty-third session
Agenda items 113 and 45

Programme budget for the biennium 1998–1999

The situation in Afghanistan and its implications for international peace and security

Programme budget implications of draft resolution A/53/L.66

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions considered an advance copy of the statement of the Secretary-General submitted in accordance with rule 153 of the rules of procedure of the General Assembly on the programme budget implications of draft resolution A/53/L.66 (A/C.5/53/45).

2. Under the terms of the draft resolution A/53/L.66, the Secretary-General, among other things, would be requested to authorize the United Nations Special Mission in Afghanistan (UNSMA), established under the terms of General Assembly resolution 48/208 of 21 December 1993, to continue its efforts to facilitate national reconciliation and reconstruction in Afghanistan, specifically to bring about an immediate and durable ceasefire among the Afghan parties and to institute a negotiating process leading to the formation of a fully representative, broad-based transitional government of national unity.

3. In paragraphs 74 and 75 of his latest report on the situation in Afghanistan (A/53/695), the Secretary-General indicated that his Special Envoy would continue to play the primary role in conducting the United Nations peacemaking activities in Afghanistan, while UNSMA would continue to support the Special Envoy's good offices, monitor the overall political and military situation and maintain and strengthen contacts with all Afghan factions, in particular the Taliban authorities, and other interested parties and organizations, including neighbouring States and others concerned about the situation in Afghanistan. Moreover, since reports of mass killings and other forms of violations of human rights and international humanitarian law in Afghanistan have become a source of major international concern, the Secretary-General proposed the addition of a new monitoring function to UNSMA, with the primary objective of promoting respect for minimum humanitarian standards and deterring massive and systematic violations of human rights in the future. To that end, the Secretary-General indicated, in paragraphs 6 and 7 of his statement of programme budget implications (A/C.5/53/45), that it is proposed to create a separate civil affairs unit, composed of monitors who would be deployed in major cities in Afghanistan. The Mission, therefore, would continue to operate in Islamabad and Kabul, with small offices and liaison outposts in Kandahar, Mazar-i-Sharif and Turkmenistan; an office would be opened in Tehran to facilitate dialogue with the Islamic Republic of Iran, and, in addition to Kabul, five outposts would be established for civil affairs monitors in major cities in Afghanistan, following the recommendations of an assessment team that

98-38726 (E) 091298

the Secretary-General expects to send to the area towards the end of January 1999, security conditions permitting.

4. The Advisory Committee recalls that the General Assembly authorized, for the period from 1 January to 31 December 1998, an appropriation of $4,007,700 under section 3, Peacekeeping operations and special missions, of the programme budget for the biennium 1998–1999. In addition, the Assembly authorized an appropriation of $327,300 under section 32, Staff assessment, to be offset by a corresponding amount in the estimates of income under income section 1, Income from staff assessment. Of the authorized amounts, expenditures for 1998 are estimated at $3,675,400, resulting in an unencumbered balance of $332,300 under section 3. Expenditures under section 32 are estimated at $269,200, resulting in an unencumbered balance of $58,100 (A/C.5/53/45, paras. 1 and 2). The Committee was informed that these savings result mostly from the fact that hazard pay was not factored into the 1998 estimates of the salary costs of the Special Envoy of the Secretary-General.

5. The Advisory Committee also recalls that the staffing component approved for 1998 consisted of 44 positions, in addition to the Special Envoy: a Head of Mission at the Assistant Secretary-General level, a Deputy Head of Mission at the D-2 level, 5 Political Affairs Officers at the P-5 level, 5 military advisers and 2 civilian police. These were supported by 6 international staff (2 General Service and 4 Field Service staff) and 24 staff at the Local level. The Committee was informed that the Assistant Secretary-General post was never filled, nor were the two civilian police posts. The Committee notes that the average vacancy rate for 1998 was 10 per cent for international staff and 16 per cent for local staff (see A/C.5/53/45, annex III.B, para. 4).

6. The staffing structure for UNSMA for 1999, and the changes proposed, are contained in paragraphs 9–13 of the Secretary-General's statement. The staffing structure would consist of 82 positions, besides the Special Envoy of the Secretary-General, and would include a Head of Mission, now at the D-2 level; the upgrading to the D-1 level of a Political Affairs Officer (currently at the P-5 level) to perform the functions of Deputy Head of Mission and Senior Political Affairs Officer; 4 Political Affairs Officers; the reduction of military advisers from 5 to 4, based on past experience, and the elimination of 2 civilian police posts, which were not filled during the last two mandate periods. The Advisory Committee was informed, however, that if the need arises, the Secretary-General may propose to reinstate those posts in the future.

7. In paragraph 10 of his statement, the Secretary-General indicated that the proposed civil affairs unit would include provisions for 40 positions under general temporary assistance. The Office of the Coordinator of the unit would include one P-5 post, one General Service and one Local level staff member, and would supervise the work of 12 civil affairs monitors, who would be placed in teams of two in six major towns (1 P-4 and 1 P-3 in each). Each team would be supported by four staff at the Local level. In addition, the unit would receive administrative backstopping from one Field Service category staff.

8. The Advisory Committee also notes that the Secretary-General proposed provisions, under general temporary assistance, for a P-4 and a General Service staff member at Headquarters. As indicated in paragraph 12 of the statement, the P-4 staff member would be assigned to follow the political developments in Afghanistan and to provide political guidance to UNSMA in the Secretary-General's efforts in conducting peacemaking activities in the area. The Committee cautions against the proliferation of political officers at Headquarters for field missions. It points out that resources already available at Headquarters, including those financed from the support account, can be called upon to provide the services envisaged in the case at hand.

9. Paragraph 14 and annex I of the statement indicate that the estimated cost of extending the mandate of UNSMA for the period from 1 January to 31 December 1999 would amount to $7,399,600 gross ($6,883,600 net). The increase is directly related to the establishment of the new civil affairs unit as well as the new offices, which in turn affect costs in the categories of civilian personnel, premises and accommodation, transport operations, air operations, communications, other equipment and supplies and services.

10. Under budget item 2, Civilian personnel costs, an amount of $4,321,400 is indicated (see A/C.5/53/45, annex I). The Advisory Committee notes that provisions are made for the salary of the Special Envoy of the Secretary-General on a "when actually employed" basis, using the short-term salary scales for staff at the Under-Secretary-General/Assistant Secretary-General level, with the assumption that he would work for a maximum of nine months (see A/C.5/53/45, annex III.B, para. 3). The Committee also notes that the costing of salaries and common staff costs for 1999 reflects a vacancy rate of 20 per cent for international and local staff, assuming that the new positions proposed would not be filled immediately (ibid., para. 4). However, the Committee is of the opinion that in view of the security situation and the uncertainty of the timing of the establishment of the civil affairs unit until the visit of the assessment team at the end of January 1999, this

provision and other related estimated expenditures may prove to be somewhat ambitious.

11. The Advisory Committee further notes that total costs for premises and accommodation are estimated at $181,400. This includes an amount of $88,000 for the rental of premises. As indicated in the statement, because of cramped and sub-standard conditions, the headquarters office has been relocated to new premises that meet the Mission's requirements (ibid., para. 7). The Committee was also informed upon enquiry that $18,000 is estimated for the rental of premises of the other five new locations, and $7,200 is estimated for the rental of the office in Tehran. Included in the $41,200 estimated for utilities, an amount of $1,200 would correspond to the office in Tehran and $3,000 would correspond to the estimated cost of utilities for the new offices.

12. A provision for $590,200 is indicated under budget item 4, Transport operations. This provision includes an amount of $395,600 for the replacement of 3 vehicles and the purchase of 16 new vehicles to support the civil affairs monitors and related staff in the new locations. The provisions for repairs, spare parts and maintenance are estimated at $100 per month for each of the 37 vehicles of the Mission (ibid., paras. 9 and 10).

13. The Advisory Committee also notes that in view of the anticipated increase in the activities in the area, provision has been made for 10 additional hours per month under air operations, increasing the estimated hire/charter costs for fixed-wing aircraft from $630,000 in 1998 to $672,000 in 1999 (A/C.5/53/45, annex I and annex III.B, para. 11). An amount of $223,200 is also provided under budget item 6, Communications, for the acquisition of additional equipment, which is essential to create a reliable link between offices and outposts in the Mission area (A/C.5/53/45, annex II).

14. The Secretary-General proposed to offset the estimated requirements for 1999 of $6,883,600, under section 3 of the programme budget for the biennium 1998–1999, by the unencumbered balance of $332,300 from the appropriation granted for 1998 (see para. 4 above). The requirements under that section would therefore amount to $6,551,300. The Secretary-General also proposed to offset the 1999 requirements under section 32 of $516,000 by the unencumbered balance for 1998 of $58,100, resulting in additional requirements under that section of $457,900. The latter would be offset by a corresponding increase in the estimate of income from staff assessment under income section 1 (A/C.5/53/45, para. 17).

15. The Secretary-General indicated that should the General Assembly adopt draft resolution A/53/L.66, an additional appropriation of $6,551,300 would be required under section 3, Peacekeeping operations and special missions, of the programme budget for the biennium 1998–1999, for the activities of UNSMA for the period from 1 January to 31 December 1999. The Advisory Committee notes that an additional appropriation of $457,900 would be required under section 32, Staff assessment, to be offset by a corresponding amount under income section 1, Income from staff assessment (ibid., para. 18).

16. In view of the comments made in paragraphs 8 and 10 above, the Advisory Committee recommends that the amounts estimated by the Secretary-General be reduced by 10 per cent; the corresponding additional appropriation would be $5,896,200 under section 3 of the programme budget for the biennium 1998–1999. An additional appropriation of $412,100 would also be required under section 32, offset by the same amount under income section 1.

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Agenda items 113 and 45

Programme budget for the biennium 1998–1999

The situation in Afghanistan and its implications for international peace and security

Programme budget implications of draft resolution A/53/L.66

Report of the Advisory Committee on Administrative and Budgetary Questions

Corrigendum

Paragraph 4

For the last sentence *substitute*

The Committee was informed that these savings result mostly from the fact that neither hazard pay nor the salary costs of the Special Envoy of the Secretary-General was factored into the 1998 estimates.

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United Nations A/53/735

General Assembly

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9 December 1998
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Fifty-third session
Agenda item 40
The situation in the Middle East

Letter dated 7 December 1998 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on the Middle East peace process by the Presidency of the European Union issued on 4 December 1998 (see annex).

I should be grateful if you would have the text of this letter and of its annex circulated as a document of the General Assembly under agenda item 40.

(Signed) Ernst **Sucharipa**
Permanent Representative of Austria to the United Nations

98-38894 (E) 091298 101298

Annex

[Original: English and French]

Statement on the Middle East peace process, issued on 4 December 1998 by the Presidency of the European Union

The European Union strongly supports the Wye Memorandum as a welcome step forward in the peace process, and welcomes the implementation of the first phase of the Memorandum by both sides.

The European Union believes it is essential that further implementation proceeds in good faith and in accordance with the timeline established at Wye.

The European Union is therefore greatly concerned by the recent announcement by the Government of Israel that it will not proceed with further implementation unless the Palestinians give additional assurances which go beyond the Wye Memorandum.

An important achievement of the Wye Memorandum was to establish a series of measures to address both sides' legitimate security concerns. In that context, the European Union deplores the recent violence between Israelis and Palestinians in the Occupied Territories, which can only damage confidence in both communities. The right response is for both sides to exercise restraint both in their actions and in their public statements. It is not an appropriate response to introduce new conditions for the implementation of the Wye Memorandum.

The European Union, therefore, stresses the need for the obligations in the Wye Memorandum to be fulfilled as signed.

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General Assembly

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10 December 1998
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Fifty-third session
Agenda item 121

United Nations pension system

Report of the Fifth Committee

Rapporteur: Mr. Tammam **Sulaiman** (Syrian Arab Republic)

I. Introduction

1. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-third session the item entitled "United Nations pension system" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 18th, 19th, 21st, 23rd and 41st meetings, on 2, 4, 6 and 10 November and 8 December 1998. Comments and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/53/SR.18, 19, 21, 23 and 41).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the United Nations Joint Staff Pension Board;[1]

(b) Report of the Advisory Committee on Administrative and Budgetary Questions (A/53/511);

(c) Report of the Advisory Committee on Administrative and Budgetary Questions on the application of the Interim Commission for the International Trade Organization/ General Agreement on Tariffs and Trade for withdrawal from the United Nations Joint Staff Pension Fund (A/53/696);

(d) Report of the Secretary-General on the administrative and financial implications arising from the report of the United Nations Joint Staff Pension Board (A/C.5/53/3);

[1] *Official Records of the General Assembly, Fifty-third Session, Supplements Nos. 9 and 9A* (A/53/9 and Add.1).

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(e) Report of the Secretary-General on the investments of the United Nations Joint Staff Pension Fund (A/C.5/53/18).

4. At the 18th meeting, on 2 November, the Chairman of the United Nations Joint Staff Pension Board introduced the report of the Board, and the representative of the Secretary-General for the investments of the Fund introduced the report of the Secretary-General on the investments of the Fund (see A/C.5/53/SR.18).

II. Consideration of draft resolution A/C.5/53/L.15

5. At the 41st meeting, on 8 December, the representative of Côte d'Ivoire, Vice-Chairman of the Committee and coordinator of the informal consultations on the item, introduced a draft resolution entitled "United Nations pension system" (A/C.5/53/L.15).

6. At the same meeting, the Committee adopted draft resolution A/C.5/53/L.15 without a vote (see para. 8).

7. After the adoption of the draft resolution, a statement in explanation of position was made by the representative of Canada (see A/C.5/53/SR.41).

III. Recommendation of the Fifth Committee

8. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations pension system

The General Assembly,

Recalling its resolutions 49/224 of 23 December 1994 and 51/217 of 18 December 1996, and section V of its resolution 52/222 of 22 December 1997,

Having considered the reports of the United Nations Joint Staff Pension Board for 1998 to the General Assembly and to the member organizations of the United Nations Joint Staff Pension Fund,[2] the report of the Secretary-General on the investments of the Fund,[3] the report of the Secretary-General on the administrative and financial implications for the United Nations programme budget for the biennium 1998–1999 arising from the report of the Board[4] and the related reports of the Advisory Committee on Administrative and Budgetary Questions,[5]

Expressing concern that the Board departed on several occasions from its long-established practice of reaching decisions by consensus,

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[2] *Official Records of the General Assembly, Fifty-third Session, Supplements Nos. 9 and 9A* (A/53/9 and Add.1).

[3] A/C.5/53/18.

[4] A/C.5/53/3.

[5] A/53/511 and A/53/696.

I

Actuarial matters

Recalling section II of its resolution 51/217,

Having considered the results of the valuation of the United Nations Joint Staff Pension Fund as at 31 December 1997 and the observations thereon of the Consulting Actuary of the Fund, the Committee of Actuaries and the United Nations Joint Staff Pension Board,

1. *Takes note with satisfaction* of the improvement in the actuarial situation of the United Nations Joint Staff Pension Fund, from an actuarial deficit of 1.46 per cent of pensionable remuneration as at 31 December 1995 to an actuarial surplus of 0.36 per cent of pensionable remuneration as at 31 December 1997, and, in particular, of the opinion provided by the Consulting Actuary and the Committee of Actuaries, as reproduced in annexes IV and V, respectively, to the report of the United Nations Joint Staff Pension Board,[6] that there was no requirement, as at 31 December 1997, for deficiency payments under article 26 of the Regulations of the Fund and that the current contribution rate of 23.7 per cent of pensionable remuneration could be maintained for funding purposes, pending a review at the time of the next valuation, as at 31 December 1999, and in the light of future developments;

2. *Expresses its appreciation* for the assessment and views of the Consulting Actuary and the Committee of Actuaries on the results of the actuarial valuation as at 31 December 1997;

3. *Takes note* of the review by the Board of the interest rate used to determine lump-sum commutations, and of the decision taken by the Board, under article 11 of the Regulations of the Fund, to change the current 6.5 per cent interest rate to 6 per cent, with respect to contributory service performed as from 1 January 2001, subject to a favourable actuarial valuation as at 31 December 1999, to be confirmed by the Board at its next session, in 2000;

4. *Notes* that the Board intends to review, with the assistance of the Consulting Actuary and the Committee of Actuaries, the changes that have been made in the United Nations pension system since 1983 as part of the measures approved by the General Assembly to redress the past actuarial deficit of the Fund, in the first instance by the Standing Committee in 1999 and then by the Board in 2000 in the light of the results of the actuarial valuation of the Fund as at 31 December 1999;

5. *Concurs* with the Advisory Committee on Administrative and Budgetary Questions that the Board should continue to monitor closely the evolution of the actuarial valuation of the Fund and that no attempt should be made to reduce the present rate of contributions to the Fund or change any other features unless and until a pattern of surpluses emerges in future valuations;

6. *Requests* the Board, should there be a positive trend towards actuarial surpluses in future valuations, to consider favourably a reduction in the present contribution rate;

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[6] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 9* (A/53/9).

II

Pension adjustment system

Recalling section III of its resolution 51/217,

Having considered the reviews carried out by the United Nations Joint Staff Pension Board, as set out in paragraphs 318 to 341 of its report,[6] of various aspects of the pension adjustment system,

1. *Takes note* of the results of the monitoring of the costs/savings of recent modifications of the two-track feature of the pension adjustment system and of the intention of the United Nations Joint Staff Pension Board to continue to monitor those costs/savings every two years, on the occasion of the actuarial valuations of the Fund;

2. *Takes note also* of the decision of the Board to recommend to the General Assembly that the threshold for implementing cost-of-living adjustments of pensions in award be reduced from 3 per cent to 2 per cent, with effect from the adjustment due on 1 April 2001, subject to a favourable actuarial valuation as at 31 December 1999, to be confirmed by the Board at its session in 2000;

III

Status of the proposed agreement between the United Nations Joint Staff Pension Board and the Government of the Russian Federation

Noting that the General Assembly had requested the United Nations Joint Staff Pension Board to provide information at its fifty-third session on developments in respect of the further steps envisaged under paragraph 5 of section IV of its resolution 51/217,

Noting also that the Board has requested its Chairman and Secretary to intensify their efforts to gain the formal approval by the Government concerned of the proposed agreement and protocol thereto, as set out in paragraph 278 of the Board's report,[6]

1. *Takes note* of the information provided by the Russian Federation concerning the problems that have arisen with regard to the implementation of the proposed agreement between the Government of the Russian Federation and the United Nations Joint Staff Pension Board and of the intention of the Government of the Russian Federation to pursue all of the outstanding issues;

2. *Encourages* all parties concerned to continue their efforts to resolve the problems addressed in section IV of its resolution 51/217, in particular those within the framework of the proposed agreement and its accompanying protocol;

IV

Financial statements of the United Nations Joint Staff Pension Fund and report of the Board of Auditors

Having considered the financial statements of the United Nations Joint Staff Pension Fund for the biennium ended 31 December 1997, the audit opinion and report of the Board of Auditors thereon and the observations of the United Nations Joint Staff Pension Board,[6]

1. *Notes with satisfaction* that the report of the Board of Auditors on the accounts of the United Nations Joint Staff Pension Fund for the biennium ended 31 December 1997 indicated that the financial statements presented fairly, in all respects, the financial position

of the Fund and that the transactions tested as part of the audit were, in all significant respects, in accordance with the financial regulations and legislative authority;

2. *Takes note* of the information provided in the reports of the United Nations Joint Staff Pension Board and the Board of Auditors[6] on the measures taken and under consideration to improve the administration of the Fund, including, in particular, measures to improve the procedures for verifying continuing eligibility for benefits from the Fund;

3. *Takes note also* of the arrangements made for the Office of Internal Oversight Services of the Secretariat to continue to carry out the internal audits of the Fund;

V

Administrative arrangements between the United Nations Joint Staff Pension Fund and the United Nations and with the other member organizations

Recalling section VII of its resolution 51/217 and section V of its resolution 52/222 concerning the administrative expenses of the United Nations Joint Staff Pension Fund,

Having considered section VI of the report of the United Nations Joint Staff Pension Board,[6] on the administrative arrangements between the Fund and the United Nations and with the other member organizations, and the comments thereon of Advisory Committee on Administrative and Budgetary Questions,[7]

Noting the current cost-sharing arrangements between the Fund and the United Nations and with the other member organizations, as set out in paragraphs 120 to 124 of the report of the Board,[6]

Noting also the discussions in the Board and its conclusions on the administrative arrangements and on the proposed revised estimates for the administrative expenses of the Fund for the biennium 1998–1999, as set out in paragraphs 194 to 202 and paragraphs 228 to 244, respectively, of the report of the Board,[6]

1. *Takes note* of the information, set out in paragraphs 132 to 144 of the report of the United Nations Joint Staff Pension Board,[6] on the services and facilities provided by the United Nations to the United Nations Joint Staff Pension Fund and the local pension services provided by the Fund secretariat in respect of participants employed by the United Nations and its affiliated programmes, as well as the information on the services and facilities provided by the other member organizations in respect of participants employed by them;

2. *Approves* the revised cost-sharing arrangements between the United Nations and the Fund, as set out in paragraphs 154 to 166 of the report of the Board;[6]

3. *Requests* the Secretary-General to complete his consultations with the funds and programmes on the methodology for apportioning charges to the affiliated programmes for services rendered to the Fund on their behalf;

4. *Notes* the intention of the Board to continue to consider other possible arrangements for the allocation of the costs of the operations of the Fund, as between those to be charged against the assets of the Fund and those to be shared by the member organizations of the Fund, taking into account the views expressed in the Board and in the Fifth Committee;

[7] A/53/511.

5. *Notes also* the issues to be addressed by the Standing Committee of the Board in 1999, in the context of the proposed programme budget for the biennium 2000–2001, in respect of the Fund's computer services, the enhancement of the role of its Geneva office, the overall staffing structure of the secretariat of the Fund and the need for additional office space;

6. *Welcomes* the measures taken by the secretariat of the Fund to ensure its preparedness in respect of the year 2000 issue in all its aspects, and encourages it to continue its efforts in this regard and to ensure that the new accounting system is fully operational in 1999;

7. *Takes note* of the analysis and conclusions on the respective responsibilities of the Secretary of the Board as the Chief Executive Officer of the Fund for the administration of the Fund and those of the Secretary-General for the investments of the Fund, as set out in paragraphs 191 to 193 of the report of the Board;[6]

8. *Takes note also* of the observations and recommendations of the Advisory Committee on Administrative and Budgetary Questions, in paragraphs 25 to 28 of its report,[7] on the reclassification of the post of the Chief of the Investment Management Service from the D-1 to the D-2 level, and on the level and title of the post of the Secretary of the Board;

9. *Approves*:

(a) The reclassification of the post of the Chief of the Investment Management Service to the D-2 level;

(b) The change in the title of the post of the Secretary of the Board to Chief Executive Officer of the United Nations Joint Staff Pension Fund;

(c) That the level of remuneration and other conditions of service for the post be set equivalent to those applicable to the Assistant Secretary-General level;

10. *Approves also* the additional resources recommended by the Board, involving additional expenses amounting to 4,161,700 United States dollars net for the biennium 1998–1999, chargeable directly to the Fund for the administration of the Fund;

11. *Amends* article 7 of the Regulations of the Fund, regarding the post and title of the Secretary of the Board, as recommended by the Advisory Committee on Administrative and Budgetary Questions in paragraph 28 of its report[7] and set out in the annex to the present resolution;

VI

Entitlement to survivors' benefits for spouses and former spouses

Recalling paragraph 4 of section VIII of its resolution 51/217,

Noting the further review undertaken by the United Nations Joint Staff Pension Board of issues related to the pension entitlements of spouses and former spouses, as set out in paragraphs 279 to 317 of its report,[6]

Welcoming the significant actions taken by the Board,

1. *Takes note* of the amendment to administrative rule B.4 made by the Standing Committee at its 180th meeting, in July 1997, as set out in annex XIV to the report of the United Nations Joint Staff Pension Board,[6] which entered into effect as from 1 August 1997;

2. *Approves*, with effect from the date of its adoption by the General Assembly, the amendment of article 45 of the Regulations of the United Nations Joint Staff Pension

Fund to provide for a payment facility in respect of former spouses, as set out in the annex to the present resolution;

3. *Requests* the Board to monitor the experience in implementing the payment facility and to report to the General Assembly, as necessary;

4. *Approves*, with effect from 1 April 1999, the inclusion of a new article in the Regulations of the Fund to provide for a divorced surviving spouse's benefit, subject to conditions regarding eligibility for the benefit and the determination of its amount, as set out in the text of the new article contained in the annex to the present resolution;

5. *Notes* that the Standing Committee of the Board has been requested to review, at its meeting in 1999, the situation of divorced spouses who would not be covered by the proposed new article for reasons related to its prospective application;

6. *Approves*, with effect from 1 April 1999, the arrangement recommended for the optional purchase of surviving spouses' benefits in respect of marriages after separation, in accordance with the provisions of the new article set out in the annex to the present resolution;

7. *Approves also*, with effect from 1 April 1999, the amendments to article 34 to eliminate the current provision which requires discontinuation of a surviving spouse's benefit upon remarriage, as set out in the annex to the present resolution;

8. *Notes* that the Standing Committee of the Board will consider, at its meeting in 1999, whether the change in paragraph 7 above might be extended to surviving spouses who had remarried prior to the effective date of the amendment;

9. *Encourages* the Board to continue its efforts in addressing these issues;

VII

Application of the Interim Commission for the International Trade Organization for withdrawal from membership in the United Nations Joint Staff Pension Fund

Having considered the report of the United Nations Joint Staff Pension Board on its forty-ninth (special) session, submitted to the General Assembly and to the member organizations of the United Nations Joint Staff Pension Fund,[8] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[9] on the decision of 16 October 1998 of the General Council of the World Trade Organization and the Executive Committee of the Interim Commission for the International Trade Organization to authorize the Director-General of the World Trade Organization to inform the Fund that the Interim Commission wishes to apply for termination of its membership in the Fund on 31 December 1998, subject to the conclusion of satisfactory transfer arrangements with the Fund,

Regretting the wish of the Interim Commission for the International Trade Organization to apply for termination of its membership in the Fund effective 31 December 1998,

1. *Takes note* of the wish of the Interim Commission for the International Trade Organization to apply for termination of its membership in the United Nations Joint Staff Pension Fund effective 31 December 1998, in the light of the strong commitment of the

[8] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 9A* (A/53/9/Add.1).

[9] A/53/696.

General Assembly to preserving the United Nations common system of salaries and allowances;

2. *Notes* that, in accordance with article 16 of the Regulations of the Fund, the data required for the determination of the proportionate share of the total assets of the Fund payable to the World Trade Organization as at the date of termination, including the relevant actuarial valuations, will not be available at the proposed date of termination;

3. *Notes also* that the United Nations Joint Staff Pension Board, on the basis of the application of the methodology approved by the Board and agreed upon by the Interim Commission for the International Trade Organization, has made a recommendation for the termination of the membership of the Interim Commission in the Fund, effective 31 December 1998;

4. *Draws the attention* of the members of the World Trade Organization that a staff member of the Interim Commission for the International Trade Organization ceasing participation in the Fund will have the possibility of electing to receive a benefit from the Fund and, at the same time, accepting an offer of employment in the secretariat of the World Trade Organization;

5. *Decides* to terminate the membership of the Interim Commission in the Fund as at 31 December 1998 upon receipt by the Secretary of the Board of an unconditional written notification from the Director-General of the World Trade Organization to that effect, no later than 15 January 1999;

6. *Decides also* that the termination of the membership of the Interim Commission is subject to receipt by the Secretary of the Board by 31 December 1998 of a written undertaking from the World Trade Organization that it will hold the Fund harmless from any and all claims against the Fund by Interim Commission participants, retirees or beneficiaries, arising from or relating to the termination of the membership of the Interim Commission in the Fund, as set out in paragraph 31 of the report of the Board on its special session;[8]

7. *Decides further* that the proportionate share of the assets of the Fund payable to the World Trade Organization upon the termination of the membership of the Interim Commission shall be determined and remitted in accordance with the procedures set out in paragraphs 25 to 27 of the report of the Board[8] and that this shall represent a complete and final settlement of the amount payable as a result of the termination of the membership of the Interim Commission in the Fund;

VIII

Other matters

1. *Takes note* of the observations of the United Nations Joint Staff Pension Board, as set out in paragraphs 348 and 352 of its report,[6] on the review and conclusions reached by the International Civil Service Commission on the changes in average tax rates in the seven headquarters countries which formed the basis for the development of the current common scale of staff assessment for pensionable remuneration, and on the impact of the possible use of national tax rates to determine pensionable remuneration for staff in the General Service and related categories;

2. *Takes note* of the further review carried out by the Board, as requested in section VIII of its resolution 51/217, of a possible amendment of article 40 (*a*) of the Regulations of the United Nations Joint Staff Pension Fund in respect of the re-employment of retirees

in receipt of benefits from the Fund under appointments of more than two but less than six months per calendar year;

3. *Concurs* that it would not be desirable to pursue a revision of article 40 (*a*) of the Regulations of the Fund at the present time, for the reasons set out by the Board in paragraphs 358 to 360 of its report,[6] leaving it to the member organizations of the Fund to determine their respective personnel policies in this regard, as has been done for the United Nations Secretariat by General Assembly decision 51/408 of 4 November 1996;

4. *Approves*, with effect from the date of adoption by the General Assembly, the amendments to articles 21 (*b*) and 32 (*a*) of the Regulations of the Fund, which relate to the time limit for linking periods of contributory service, if no benefit has been paid, as set out in the annex to the present resolution;

5. *Takes note* of the other matters dealt with in section X of the report of the Board;[6]

IX

Investments of the United Nations Joint Staff Pension Fund

1. *Takes note* of the report of the Secretary-General on the investments of the United Nations Joint Staff Pension Fund,[3] as well as the observations of the United Nations Joint Staff Pension Board thereon in its report;[6]

2. *Expresses its appreciation* to the Secretary-General and to the members of the Investments Committee for the investment performance of the Fund, which contributed significantly to the actuarial surplus of the Fund as at 31 December 1997;

3. *Welcomes* the development of a strategic benchmark for the investment performance of the Fund, as described in paragraph 33 of the report of the Secretary-General[3] and paragraphs 62 and 63 of the report of the Board;[6]

4. *Supports* the efforts of the Secretary-General to continue consideration of suitable benchmarks and other indicators for assessing the investment performance of the Fund;

5. *Takes note* of the observations of the Board of Auditors on the outstanding tax refunds due to the Fund from some Member States in respect of direct taxes imposed on the investment income of the Fund, as set out in paragraphs 13 to 15 of its report, which is reproduced in annex III to the report of the Board;[6]

6. *Urges* those Member States that have outstanding balances on foreign tax accounts receivable to provide the reimbursement due as quickly as possible;

7. *Reiterates its request* to those Member States that do not grant tax exemptions to make all possible efforts to do so as soon as possible.

Annex

Amendments to the Regulations of the United Nations Joint Staff Pension Fund

Article 7

Secretariat of the United Nations Joint Staff Pension Board

1. Replace paragraph (*a*) with the following:

"(a) The Chief Executive Officer of the Fund and a Deputy shall be appointed by the Secretary-General on the recommendation of the Board."

2. Replace paragraph (*c*) with the following:

"(c) The Chief Executive Officer shall perform that function under the authority of the Board and shall certify for payment all benefits properly payable under these Regulations. The Chief Executive Officer shall also serve as Secretary of the Board. In the absence of the Chief Executive Officer of the Fund, the Deputy Chief Executive Officer shall perform these functions."

Article 21

Participation

Replace paragraph (*b*) with the following:

"(b) Participation shall cease when the organization by which the participant is employed ceases to be a member organization, or when he or she dies or separates from such member organization, except that participation shall not be deemed to have ceased where a participant resumes contributory service with a member organization within 36 months after separation without a benefit having been paid."

Article 32

Deferment of payment or choice of benefit

Replace paragraph (*a*) with the following:

"(a) The payment to a participant of a withdrawal settlement, or the exercise by a participant of a choice among available benefits, or between a form of benefit involving payment in a lump sum and another form, may be deferred at the participant's request for a period of 36 months."

Article 34

Widow's benefit

1. Replace paragraph (*f*) with the following:

"(f) The benefit shall be payable at periodic intervals for life, provided that a benefit payable at an annual rate of less than 200 dollars may be commuted by the widow into a lump sum which is the actuarial equivalent of the benefit at the standard annual rate under (c) above, or the annual rate under (e) above, as the case may be."

2. Replace paragraph (*g*) with the following:

"(g) The benefit shall, where there is more than one surviving spouse, be divided equally between the spouses, and upon the death of each such spouse shall be equally divided among the remainder."

3. Delete paragraph (*h*) in its entirety.

Article 35 *bis*

Divorced surviving spouse's benefit

Add the following new article:

"(a) Any divorced spouse of a participant or former participant, separated on or after 1 April 1999, who was entitled to a retirement, early retirement, deferred retirement or disability benefit, or of a participant who died in service on or after that date, may, subject to the provisions of article 34 (b) (applicable also to widowers), request a former spouse's benefit, if the conditions specified in paragraph (b) below are fulfilled;

"(b) Subject to paragraph (d) below, the divorced spouse is entitled to the benefit set out in paragraph (c) below, payable prospectively following receipt of the request for a divorced surviving spouse's benefit, if, in the opinion of the Secretary, all of the following conditions are fulfilled:

"(i) The participant had been married to the former spouse for a continuous period of at least ten years, during which contributions were paid to the Fund on account of the participant or the participant was awarded a disability benefit under article 33 of the Regulations;

"(ii) The former spouse had not remarried;

"(iii) The participant's death occurred within 15 years of the date when the divorce became final, unless the former spouse proves that at the time of death the participant was under a legal obligation to pay maintenance to the former spouse;

"(iv) The former spouse has reached the age of 40. Otherwise the benefit entitlement shall commence on the day immediately following the day that age is reached; and

"(v) Evidence is provided by the former spouse that the participant's pension entitlement from the Fund was not taken into account in a divorce settlement;

"(c) A former spouse who, in the opinion of the Secretary, has met the conditions set out in paragraph (b) above shall be entitled to the widow's or widower's benefit under article 34 or 35 as the case may be; however, if the participant is survived by both one or more such former spouses and/or by a spouse entitled to a benefit under article 34 or 35, the benefit payable under article 34 or 35 shall be divided between the spouse and former spouse(s) in proportion to the duration of their marriages to the participant;

"(d) Article 34 (f) and (g) shall apply *mutatis mutandis*."

Article 35 *ter*

Spouses married after separation

Add the following new article:

"(a) A former participant receiving a periodic benefit may elect to provide a periodic benefit for life in a specified amount (subject to paragraph (b) below) to a spouse who was not married to him or her at the date of separation. Such election shall be made within 180 days of the date of marriage or of the entry into force of this provision, if later, and shall become effective one year after the date of marriage, or one year after the date of entry into force of this provision, as appropriate.

The benefit shall be payable as of the first day of the month following the death of the former participant. When the election becomes effective, the benefit payable to the former participant shall be reduced in accordance with actuarial factors to be determined by the Fund's Consulting Actuary. An election under this subsection may not be revoked after it becomes effective, except by the death of the spouse, in which case it will be considered terminated as from that date;

"(b) Any election made under paragraph (a) shall be subject to the following:

"(i) The amount of the periodic benefit payable to the former participant, after reduction owing to elections made pursuant to paragraph (a) above, shall be at least one half of the benefit that would have been payable without any such elections; and

"(ii) The amount of the benefit payable to the spouse shall not be larger than the amount of the benefit payable to the retired participant after reduction for the elections."

Article 45

Non-assignability of rights

Replace the text of article 45 with the following:

"A participant or beneficiary may not assign his rights under these Regulations. Notwithstanding the foregoing, the Fund may, upon receipt of a request from a participant or former participant made pursuant to a legal obligation arising from a marital or parental relationship and evidenced by an order of a court or by a settlement agreement incorporated into a divorce or other court order, direct that a portion of a benefit payable by the Fund to such participant for life be paid to one or more former spouses and/or a current spouse from whom the participant or former participant is living apart. Such direction or payment related thereto shall not convey to any person a benefit entitlement from the Fund or (except as provided herein) provide any rights under the Regulations of the Fund to such person or increase the total benefits otherwise payable by the Fund. To be acted upon, a request must be consistent with the Regulations of the Fund. The direction in any such request shall normally be irrevocable; however, a participant or former participant may request, upon satisfactory evidence based on a court order or a provision of a settlement agreement incorporated into a court decree, a new direction that would alter or discontinue the payment or payments. Furthermore, any direction shall cease to have effect following the death of the participant or former participant. If a designee under a direction predeceases the participant or former participant, the payments shall not commence, or if they have commenced, shall cease upon the designee's death. In the event that the payment or payments under a direction have been diminished, discontinued or have failed to commence or have ceased, the amount of benefit payable to the participant or former participant shall be duly adjusted."